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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/913,697      01/28/2002      Eric F. Bernstein      BERN-0040      3740

26259      7590      06/04/2002

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EXAMINER

DODSON, SHELLEY A

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 06/04/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/913,697

Applicant(s)

BERSTEIN, ERIC F.

Examiner

SHELLEY A. DODSON

Art Unit

1616



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE(3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 05 6) ☐ Other:

DETAILED ACTION

Claims 1-10 are pending in this application filed 08/16/01.

Applicant's claims are directed toward compositions and methods for prevention of photoaging.

Claim Rejections - 35 USC § 102

15.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

16.

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Lezdey et al USP 6,096,327, cited and supplied by applicant.

Lezkey et al disclose cosmetic compositions and methods providing revitalizing the skin especially where it is placed in an environment which can cause injury or damage to the skin. Lezkey further discloses that the compositions contain an effective amount of protease inhibitors, specifically serine protease inhibitors and more specifically, alpha 1-antitrypsin. Lezkey further discloses

that the damage to the skin may be caused by exposure to the sun.  
In column 2, lines 52-65, Lezkey further discloses that the  
protease inhibitor is a milk-type product. Lezkey discloses each  
and every aspect of the invention as claimed by the applicant in  
the instant case.

17.

Any inquiry concerning this communication or earlier  
communications from the examiner should be directed to Shelley A.  
Dodson whose telephone number is (703) 308-2445. The examiner can  
normally be reached on Monday-Thursday from 7:30 a.m. to 5:00 p.m.  
The examiner can also be reached on alternate Fridays.

The fax phone number for the organization where this  
application or proceeding is assigned is (703) 308-4556. A  
facsimile center has been established in Crystal Mall 1, Room 7C11.  
The hours of operation are Monday through Friday, 8:45 AM to 4:45  
PM. This new location should be used in all instances when faxing  
any correspondence numbers to Group 1600. The Patent examining Fax  
Center telecopier numbers are (703) 308-7921 and (703) 308-4556.  
Use of the new Crystal Mall 1 Center will facilitate rapid delivery

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of materials to the Group. The faxing of all papers must conform with the notice published in the Official Gazette, 109 O.G. 30 (November 15, 1989).

A handwritten signature in black ink, appearing to be 'Shelley A. Dodson', written over a horizontal line.

Shelley A. Dodson  
Primary Examiner  
Art Unit 1616

June 3, 2002